

UTAH GAS & OIL CORP.

IBLA 82-655

Decided June 2, 1982

Appeal from action by the Wyoming State Office, Bureau of Land Management, to approve an assignment of oil and gas lease Wyoming 018139-B.

Case remanded, with instructions.

1. Administrative Practice -- Oil and Gas Leases: Assignments or Transfers

Where subsequent to the approval by the Department of an assignment of interests in an oil and gas lease at the request of the assignee it appears that there is such a dispute between the parties as to the intent and purpose of the assignment instrument that, had the Department known of the dispute it would not have acted on the purported assignment until the dispute between the parties had been resolved by the courts or the parties themselves, the Department will not rescind the approval but will not approve further assignments of rights stemming from the disputed assignment or permit drilling by any one claiming operating rights deriving from the disputed assignments for a period of time sufficient to permit the parties a chance to settle their dispute by agreement or litigation.

APPEARANCES: Scott W. King, Esq., Murray, Utah, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Utah Gas & Oil Corporation has appealed the action by the Wyoming State Office, Bureau of Land Management (BLM), on March 10, 1982, approving an assignment, effective April 1, 1982, of the entire record title to oil and gas lease Wyoming 018139-B, from Utah Gas & Oil Corporation to Y U Oil, Inc.

Lease Wyoming 018139-B was created by partial assignment, effective February 1, 1961, from oil and gas lease Wyoming 018139 issued November 1, 1952. The initial assignment ran from Marvel Petroleum Corporation to Marvel Lowrence. Following several assignments, both of the entire leasehold interest and of fractional interests in the lease, the full title merged into Y U Oil, Inc., September 1, 1974, and was thereafter assigned to Utah Gas & Oil Corporation August 1, 1981.

By an assignment ostensibly executed by George Naylor, Chairman of the Board, on February 18, 1982, Utah Gas & Oil Corporation assigned the entire title to lease Wyoming 018139-B to Y U Oil, Inc. The assignment was filed for approval with BLM March 8, 1982, and was approved effective April 1, 1982.

Naylor contends that he did not knowingly execute the assignment bearing the date of February 18, 1982. He questions the authenticity of his signature on the document and requests that the approval of the assignment to Y U Oil, Inc., be rescinded. BLM denied a similar request to rescind the approval, and this appeal followed.

Appellant contends that numerous defaults and misrepresentations exist in the dealings between Utah Gas & Oil Corporation and Y U Oil, Inc., relative to equipment allegedly on the leasehold, to produced oil in storage on the leasehold, and to oil allegedly delivered from another lease but represented as having been produced from this leasehold.

The situation here presented is similar to that considered by the Department in Newton Oil Co., A-27662 (Dec. 17, 1958). The syllabus of that decision reads:

Where subsequent to the approval by the Department of an assignment of interests in an oil and gas lease at the request of the assignee it appears that there is such a dispute between the parties as to the intent and purpose of the assignment instrument that, had the Department known of the dispute the Department would not have acted on the purported assignment until the dispute between the parties has been resolved by the courts or the parties themselves, the Department will not rescind the approval but will not approve further assignments of rights stemming from the disputed assignment or permit drilling by any one claiming operating rights deriving from the disputed assignments for a period of time sufficient to permit the parties a chance to settle their dispute by agreement or litigation.

[1] It is obvious that a controversy exists between Utah Gas & Oil Corporation and Y U Oil, Inc., as to the rights to oil and gas lease Wyoming 018139-B. There is no question that if the assignment from Utah Gas & Oil Corporation to Y U Oil, Inc., had not already been approved, the Department would now refuse to act on the assignment until the parties had resolved their dispute in court. Richfield Oil Corp., 65 I.D. 348 (1958). The Department will not take sides in matters of private contract dispute.

However, the Department has already approved the assignment to Y U Oil, Inc. To rescind the approval would amount to tacit acceptance and approval of the Utah Gas & Oil Corporation's claims. In the absence of further proceedings, we are not prepared to find fraud which would demand rescinding of the approval of the assignment. Cf. D. J. Simmons, 64 I.D. 413 (1957).

But, by the same token, allowing the approval of the assignment to stand should not be taken as evidence of the Department's view that the approval was properly given. To that end BLM is instructed not to approve any further assignment of lease Wyoming 018139-B, and the Mineral Management Service is instructed not to approve any drilling requests claiming operation rights under the assignment to Y U Oil, Inc. These instructions will remain in effect for a period of 90 days from the date of this decision, during which Utah Gas & Oil Corporation and Y U Oil, Inc., can arrive at an amicable agreement or institute appropriate litigation to resolve their respective rights. If at the end of the 90-day period no notice has been given to BLM of the initiation of any action to settle the dispute between the parties, the stop-order will terminate and the approval of the assignment to Y U Oil, Inc., will be permitted to stand without qualification.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the case is remanded to the Wyoming State Office, Bureau of Land Management, for further disposition in accordance with this decision.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Edward W. Stuebing
Administrative Judge

